IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WP(C).No. 14677 of 2007(V)

PETITIONER:

P.V.JANARDANAN, AGED 56,
S/O.KUNHIRAMAN VAIDYAR,RESIDING AT PUTHIYA KOTTA,
KANHANGAD, KASARAGOD DISTRICT.

BY ADV. SMT.R.PADMAKUMARI

RESPONDENTS:

SECRETARY, KANHANGAD MUNCIPALITY,
KANHANGAD,KAARAGOD DISTRICT.

BY ADV. SRI.K.K.CHANDRAN PILLAI
SRI.A.S.SAJUSH PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 14677/2007.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : CERTIFICATE OF PURCHASE DT. 17.9.03 ISSUED BY LAND TRIBUNAL.

EXT. P2 : TRUE COPY OF ORDER DATED 19.9.05 ISSUED BY THE RESPONDENT.

EXT. P3 : TRUE COPY OF PROVISIONAL ORDER DT. 19.4.07 ISSUED BY THE RESPONDENT.

EXT. P4 : TRUE COPY OF SHOW CAUSE NOTICE DT. 19.4.2007 ISSUED BY THE RESPONDENT.

RESPONDENT'S EXTS:

EXT. R1(a) : TRUE COPY OF LETTER ISSUED BY THE DISTRICT COLLECTOR, KASARGODE DATED 18.8.2005.

EXT. R1(b) : TRUE COPY OF THE REPORT SUBMITTED BY THE BUILDING INSPECTOR DATED 13.4.2007.

EXT. R1(c) : TRUE COPY OF COMPLAINT FILED BEFORE THE SUB INSPECTOR OF POLICE, KANHANGAD DATED 14.4.2007.

EXT. R1 (d) : TRUE COPY OF REPORT DATED 18.4.2007 SUBMITTED BY THE BUILDING INSPECTOR.

EXT. R1(e) : TRUE COPY OF COMPLAINT ISSUED TO THE SUB INSPECTOR OF POLICE, KANHANGAD DATED 24.4.2007.

EXT. R1 (f) : TRUE COPY OF REPORT ISSUED FROM THE STATION HOUSE OFFICE OF THE SUB INSPECTOR OF POLICE, KANHANGAD.

EXT. R1(g) : TRUE COPY OF COMPLAINT FILED BEFORE THE DEPUTY SUPERINTENDENT OF POLICE, KANHANGAD DATED 28.4.2007.

EXT. R1(h) : TRUE COPY OF COMPLAINT FILED BEFORE THE SUPERINTENDENT OF POLICE, KASARGODE DATED 15.5.2007.

EXT. R1(i) : PHOTOGRAPHS (5 Nos.)

K.M.JOSEPH, J.

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WP.(C) No.14677 of 2007

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Dated this the 8th day of June, 2007

JUDGMENT

Petitioner has approached this court challenging Exts.P3 and P4 and seeking a direction not to interfere with the repair work done by the petitioner in his property as per Ext.P2 order dated 19.9.2005. Ext.P3 is an order passed under Section 406 of the Municipalities Act. Ext.P4 is the show cause notice under Section 406 of the Act. Case of the petitioner in brief is that as per Ext.P1 certificate of purchase petitioner became the absolute owner of two cents of land in R.S. No.211/3 in Hosdurg Village and Taluk where he constructed a two storied building. His further case is that for construction of the road Government purchased 939 square links of property. To repair the remaining existing building, petitioner obtained Ext.P2 license from the Panchayat. One Engineer of the respondent obstructed carrying out of the work on 16.4.2007. Thereafter orders were issued. This court has passed an interim order of stay of demolition pursuant to Exts.P3 and P4.

2. I heard learned counsel for the respondent Sri. K.K.Chandran Pillai also. He would contend that Exts.P3 and P4 are notices under Section 406 and a decision will be taken in the matter after hearing the petitioner and after considering any objection to be filed by the petitioner. However, learned counsel for the respondent submits that the petitioner under the guise of the interim order has proceeded further with the construction, which is illegal.

In such circumstances the writ petition is disposed of as follows:

The petitioner is free to file whatever objections petitioner has to on Exts.P3 and P4 within a period of three weeks from today. Thereafter the petitioner will be given an opportunity of being heard by the respondent. After hearing the petitioner a decision in accordance with law will be taken by the respondent. Interim order staying demolition will continue till a decision is taken as aforesaid. In regard to case of the respondent that the petitioner is making construction under the guise of the interim order, petitioner submits that no further construction will be made. If the respondent goes to the site for preparing a mahazar to assess the constructions already made to

ensure that no further construction is made, the petitioner will fully co-operate with the same. It is made clear that the interim order passed by this court does not authorise the petitioner to make any further construction.

(K.M. JOSEPH, JUDGE)

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